

M/D 1

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA

2008 FEB -7 A 9:17

James R. West, Jr. 110315)
Full name and prison name of Plaintiff(s))
P. HACKETT, CL)
U.S. DISTRICT COURT)
MIDDLE DISTRICT) ALA

v.)

CIVIL ACTION NO. 2:08cv82-MEF
(To be supplied by Clerk of U.S. District Court)Captain Sengera,)
Sergeant Shaun Hogan,)
Sergeant Gerald Wright,)
C.O.T. Campbell,)
C.O.T. Joel Tew,)
Sergeant Pasley)
Name of person(s) who violated your)
constitutional rights. (List the names)
of all the person.))

DEMAND FOR JURY TRIAL

I. PREVIOUS LAWSUITS

- A. Have you begun other lawsuits in state or federal court dealing with the same or similar facts involved in this action? YES ☒ No ☐
- B. Have you begun other lawsuits in state or federal court relating to your imprisonment? YES ☐ NO ☒
- C. If your answer to A or B is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff (s) James West

Defendant(s) J. Hamilton, Munchie Hector, H.C.
Drake

2. Court (if federal court, name the district; if state court, name the county)

Montgomery County Circuit Court

3. Docket number CV-2007-1740 (§1983 excessive use of force)
4. Name of judge to whom case was assigned Eugene W. Reese
5. Disposition (for example: was the case dismissed? Was it appealed? Is it still pending?) Pending
6. Approximate date of filing lawsuit November 6, 2007
7. Approximate date of disposition Unknown

II. PLACE OF PRESENT CONFINEMENT Easterling Prison, 200 Wallace Drive, Clib, Alabama 36017

PLACE OR INSTITUTION WHERE INCIDENT OCCURRED Easterling Prison, 200 Wallace Drive, Clib, Alabama 36017

III. NAME AND ADDRESS OF INDIVIDUAL(S) YOU ALLEGE VIOLATED YOUR CONSTITUTIONAL RIGHTS.

NAME

ADDRESS

1. Captain Sengers, Easterling Prison, 200 Wallace Dr. Clib, Al. 36017
2. Shawn Sogers, Easterling Prison, 200 Wallace Dr., Clib, Al. 36017
3. Donald Wright, Easterling Prison, 200 Wallace Dr. Clib, Al. 36017
4. Sergeant Peavey, Easterling Prison, 200 Wallace Dr., Clib, Al. 36017
5. C.O.I., Campbell, Easterling Prison, 200 Wallace Dr., Clib, Al. 36017
6. C.O.I., Fred Lewis, Easterling Prison, 200 Wallace Dr., Clib, Al. 36017

IV. THE DATE UPON WHICH SAID VIOLATION OCCURRED January 18, 2008

V. STATE BRIEFLY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOUR CONSTITUTIONAL RIGHTS ARE BEING VIOLATED:

GROUND ONE: 8th and 14th Amendment prohibition of infliction

of cruel and unusual punishment, unnecessary and wanton infliction of pain through use of excessive force. I was beaten by prison officials named herein and said beating was administered maliciously, sadistically and without need or provocation. (See attached photos 5-10)

STATE BRIEFLY THE FACTS WHICH SUPPORT THIS GROUND. (State as best you can the time, place and manner and person involved.)

See Statement Of Facts, pages 1-4 attached hereto

GROUND TWO:

SUPPORTING FACTS:

GROUND THREE:

SUPPORTING FACTS:

VI. STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU. MAKE NO LEGAL ARGUMENT. CITE NO CASES OR STATUTES.

1. Trial by jury
2. Compensatory Damages, mental anguish, pain and suffering
3. Punitive Damages to punish and deter future incidents of excessive use of force at Easterday Prison
4. Any and all other general, equitable or other relief to which Plaintiff may be legally entitled.

James R. West, Jr.
Signature of plaintiff(s)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 5, 2008
(Date)

James R. West, Jr.
Signature of plaintiff(s)

Statement Of The Facts

On 11/8/68 I was assigned to Admin. Seg. B-7-37. At about 1300 hours Sergeant Shaun Logan came to the cell and asked me if I was going to comply with his order to be handcuffed and exit the cell. I refused to be handcuffed.

Sergeant Logan left and returned with Captain Sompers. Captain Sompers is Administrative Captain. He authorized use of force in those situations where some degree of force is anticipated. Captain Sompers asked me if I would comply with the order to be handcuffed. I told him I would not comply.

Captain Sompers stepped back from the cell door and authorized the officers to enter the cell. Sergeant Shaun Logan, Sergeant Gerald Wright, Sergeant Peavey, C.O.I., Campbell and C.O.I., [redacted] rushed into the cell.

Officer Campbell had the plexiglas riot shield. He was the first officer to enter the cell. I was standing to the rear of the 8' x 10' cell. Officer Campbell ran into me with the shield. I was knocked against the back wall. The back of my head hit the square metal bars in the cell window. I was dazed.

Officer Campbell grabbed my left arm and head. Other officers grabbed me from behind. I could not identify the officers other than I know Ser. Logan, Wright and Peavey had entered the cell. I was thrown face down on the bunk inside the cell.

One of the officers grabbed my legs and placed shackles on very tightly. Officer Campbell grabbed my left arm and pulled it up above my head. Another officer grabbed my right arm. Because I was lying face down, I could not see the officer who grabbed my right arm. Officer Campbell was hitting me with his feet on the left side of my head and earlobe. The officer holding my right arm was beating me on the right side of my head and earlobe.

Another officer was punching me in my left rib cage and kidneys with his closed fist. I lost consciousness because of the severe pain from the repeated punches to my left rib cage and kidneys.

I was held and I remember counting 3 punches before I lost consciousness. Later, after I was placed in the MOU, I discovered I had urinated in my undershorts from the blows to my kidneys.

I was held face down on the bed by three officers and my legs had been shackled. I was unable to offer any resistance at this point. I was incapacitated. One or more of the officers, Logan, Wright or Peavey punched me in my left rib cage and kidneys at least 3 times I can recall.

all blows delivered to my head, rib cage and kidneys were unnecessary and unprovoked. Three officers had me pinned to the bed face down and my legs were shackled.

I was incapacitated before any of the blows were struck to my head, rib cage and kidneys. There were five officers and all of them were larger and stronger than me.

Captain Senguer watched the beating from outside the cell. He made no effort to stop the beating even though he could see clearly no match for the five younger officers. He could not avoid saying that I was helpless once I was thrown face first on the bunk. He did not take any action to protect me from the use of excessive force.

I am 62 years old. I was unable to even consider I was a physical match for any one of those officers, much less five of them. Any one of those officers could have entered that cell, grabbed my wrists and placed handcuffs on me.

Captain Senguer approved the use of force in 1968 and he failed to take reasonable steps to protect me from the other officers' excessive use of force where adequate force had been used to place me face down on the bunk, shackled and two officers holding my arms.

I regained consciousness when I was dragged from the bed to the middle of the cell floor. Officer Law grabbed me by my left arm and Officer Campbell grabbed me by my right arm. They both watched, held on my arms to bring me to my feet. I was unable to stand on my own strength. I was delivered from the pain.

I was given pain medication upon my arrival at KCM. I was made to pull my pants down and remove my trousers. The entire left side of my back, rib cage and kidney area was bruised severely. The Service attended all the way to my left hip. I could not put any pressure on my left hip.

The left side of my head was bruised severely, including my forehead, left and right. The only sound I could detect as my left ear was a roaring sound. I continue having difficulty hearing in my left ear.

Both knees had cuts and bruises. I was unable to sit, stand or walk on my own strength. My left rib cage and kidneys were hurting so bad I could barely breathe. I was limited to slow, short breaths. Even today my left rib cage and area around my kidneys is sore to the touch. My left rib cage continues to make a popping sound when I inhale.

I was placed in a wheelchair and pushed to the Medical Observation Unit (MOU). This is a cell with a metal bed mounted approximately six (6) inches off the floor. The bed is equipped with a plastic coated mattress, no sheets or blanket. I was helped from the wheelchair by Sergeant Wright. I requested, and was given, no blanket. The blanket was full of holes.

It was very painful for me to try to get up and down as the bed because it was so low. It required me to bend ~~down~~ when I would try to bend, the pain in my rib cage and kidneys was so intense it would take my breath.

Later on that Friday night or Saturday night, after many attempts, I finally produced enough urine to give a specimen. After the specimen was checked, Nurse Living informed me the doctor said start the IV solution.

Officer Stewart and Officer Davis came to HCU to assist Nurse Living in starting the solution. Officer Stewart helped me up from the bed and assisted me to the examination bed in the doctor's office.

I can't remember how long I was in the IV. I think it was 1-2 days. Even though I was on IV, I was still unable to urinate. I finally told one of the nurses on third shift that I wanted her to disconnect me from the IV solution. I explained that my kidneys felt as though they were going to burst. I was unable to urinate any significant amount. When I tried to urinate, I would feel a burning sensation and a tingling feeling through my whole body.

The nurse called the doctor and he said the only way he would agree to remove the IV was if I would sign a waiver. I signed the waiver and the IV was removed.

I was hospitalized for 5 days and 4 nights. During the five days I was unable to eat. I ate one peanut butter sandwich and one piece of chicken in the five day period. The mere smell of food made me feel as if I was going to vomit. The nurses gave me juice to drink.

When the nurses would come to the cell to give me medication, I would crawl on my hands and knees to the opening in the cell door to get my medication.

I went from 11/4/68 until 11/24/68 without having a bowel movement. Prior to the beating, I had daily, or no longer than two days, bowel movements.

I slept in that bed in the floor for five days. Officer Jordan came over on Sunday and assisted me in getting to the shower. Although I was allowed to shower, I was forced to wear the same blood, feces and urine stained underclothes and jumpsuit.

The stench was so offensive from my body odor and dirty clothes that the hospital staff told the inmate janitor, to mop the floor with bleach and disinfectant. He did this while I was lying in the bed.

I was x-rayed on Monday, January 21, 2008. X-rays were made of my left hip, right shoulder and ribs. I was unable to breathe to expand my rib cage for the x-rays. Because Monday was a state holiday, the physician did not work on Monday.

The doctor returned Tuesday and I was given a message that the doctor said the x-rays did not show any broken ribs. No one has explained why my rib cage pops when I am lying on my back and I inhale oxygen into my lungs. You can actually hear it without a stethoscope.

I was released from prison on 1/22/08. I was placed in disciplinary segregation to serve 45 days for failing to obey a direct order of a DOC official regarding the incident on 1/18/08.

I have been experiencing blackouts since the beatings occurred. Up to this point they are very brief. When they occur, it feels as though every muscle in my body goes limp. When I awakes, I am gasping for air. It feels as though my lungs have stopped working.

Also, there are times when I stand, I have difficulty maintaining my balance. Prior to the incident on 1/18/08 I did not suffer from any of the above infirmities.

Because of my status in disciplinary segregation, I am not allowed to have a mattress between the hours of 0600-1800 hours. I have been taken off all pain medication and I have been sleeping on the metal bed.

I am still having severe pain in my ribs and kidneys.

The prison warden is insisting I go back into the general prison population where these sit officers are assigned duty on a daily basis.

All times referenced herein, James R. West, Jr., was and is, a state prisoner being held in the custody of Alabama Department of Corrections.

All named defendants herein were and are employees of Alabama Department of Corrections. All named defendants are acting under color of state law and all defendants are being sued in their official and personal capacity.

James R. West, Jr.

Incident One (continued)Defendant #1: Captain Sengors

Defendant Sengors violated my federally protected rights under the Eighth and Fourteenth Amendments to the U.S. Constitution by subjecting, or causing me to be subjected to cruel and unusual punishment where he approved the use of excessive force to have me extracted from my assigned cell and he failed to take any action to protect me from other corrections officers' use of excessive force. once he saw I was incapacitated and did not pose a threat to any of the officers.

Because Captain Sengors failed to intervene and stop the corrections officers' continued use of excessive force, I was hospitalized for 5 days and suffered multiple injuries to my body and body organs.

Captain Sengors personally authorized Sergeant Shaun Lopez, Sergeant Gerald Wright, Sergeant Peasley and officers Campbell and Joel Tew to enter segregation cell B-J-37 equipped with a riot shield to extract me from the cell.

Because of the number, 3, and size of the above named officers, I was incapacitated immediately upon their entry into the 8'x10' cell. I was thrown face down on the bunk inside the cell. All of the above named officers began punching me with their hands and fists on the left and right side of my head, ears, knee caps, left side rib cage and kidneys. All officers were acting individually and collectively. Sengors stood in the hallway and observed the beating.

As a result of that beating, I was held in the Medical Observation Unit (MOU) at the Health Care Facility for five days. I was unable to walk or perform normal bodily functions and movements even as of the date this complaint is mailed.

Ground One (Continued)Defendant #2: Shaun Logan

Defendant Logan violated my federally protected rights under the 8th and 14th Amendments to the U.S. Constitution by subjecting me to cruel and unusual punishment by using unnecessary and unreasonable excessive force. ~~He~~ He maliciously and sadistically causing me to suffer pain and injury by beating me with his hands or fists.

On 1/18/68, Sergeant Logan entered segregation cell #3-37 along with Sergeant Harold Wright, Sergeant Plowey, Officer Campbell and Officer Tew.

Logan, acting individually and in concert with the other named officers, beat me with his hands or fists on the left and right side of my head to include both lobes, cheeks, left side ribs cage and kidneys. He also inflicted severe bruising and abrasions on my left and right forearms and wrists.

Logan, acting in concert with the above named officers, continued to use excessive force to inflict pain and injury after I had been rendered helpless.

Because of Logan's unnecessary and unreasonable use of excessive force, I suffered, and continue to suffer mental anguish, pain and suffering. I was hospitalized for five days and I was unable to walk or perform normal bodily functions and movements because of the beating on 1/18/68. I still suffer pain from internal injuries I received from the beating.

Logan failed to intervene and protect me from the use of excessive force after I had been incapacitated and could offer no resistance. He failed to take reasonable steps to stop the other officers' use of excessive force.

Ground One (Continued)Defendant #3: Gerald Wright

Defendant Wright violated my federally protected rights under the 8th and 14th Amendments to the U.S. Constitution by subjecting me to cruel and unusual punishment by using unnecessary and unreasonable excessive force by maliciously and sadistically causing me to suffer wanton inflictions of pain by beating me with his hands or fists after I was incapacitated.

On 1/13/68, Sergeant Gerald Wright entered segregation cell B-2-37 along with Sergeant Hogen, Sergeant Pealey, and officers Campbell and Lee.

Wright, acting individually, and in concert with other named officers, entered the cell and beat me on the left and right sides of my head and earlobes, knee caps, left side rib cages and kidneys. He also caused severe bruising and abrasions on my left and right forearms and wrists.

Wright, acting in concert with the other officers, continued to use excessive force to inflict pain and injury after I had been rendered helpless.

As a result of Wright's unnecessary and unreasonable use of excessive force, I suffered, and continue to suffer, mental anguish, pain and suffering.

I was hospitalized for 5 days and I was unable to walk or perform normal bodily functions and movements because of internal and external injuries I received from that beating on 1/13/68.

Wright also failed to take reasonable steps to stop the other officers' use of excessive force after I had been subdued and incapacitated.

Ground One (Continued)Defendant #4: Sergeant Peavey

Sergeant Peavey violated my federally protected rights under the 8th and 14th Amendments to the U.S. Constitution by subjecting me to cruel and unusual punishment by using unnecessary and unreasonable excessive force by maliciously and sadistically causing me to suffer wanton infliction of pain by beating me with his hands or feet after I was incapacitated.

On 11/18/68, Sergeant Peavey entered segregation cell B-2-37 along with Sergeant Logan, Sergeant Wright and officers Campbell and Tew.

Peavey, acting individually, and in concert with other named officers, entered the cell and beat me on the left and right side of my head and earlobes, knuckles, left side rib cage and kidneys. He also caused severe bruising and abrasions on my left and right forearms and wrists.

Peavey acted individually and in concert with the other officers to use excessive force after I was incapacitated and in restraints.

As a result of Wright's unnecessary and unreasonable use of force, I suffered, and continue to suffer mental anguish, pain and suffering.

I was hospitalized for five days and I was unable to perform normal bodily functions and movements because of the beating inflicted upon me by Peavey and other officers after I was incapacitated.

Peavey also failed to take reasonable steps to stop the other officers' use of excessive force after I was incapacitated. He took no action to protect me from the other officers.

Ground One (Continued)Defendant #5: C.O.I., Campbell

Defendant Campbell violated my federally protected rights under the 8th and 14th Amendments to the U.S. Constitution by subjecting me to cruel and unusual punishment by using unnecessary and unreasonable excessive use of force by maliciously and sadistically causing me to suffer wanton infliction of pain by beating me with his hands or fists after I was incapacitated.

On 11/18/68, officer Campbell entered segregation cell B-2-37 along with Logan, Wright, Peasey and Law. Officer Campbell entered the cell with the plexiglas riot shield. Campbell hit me with the shield and grabbed me and threw me face down on the bunk inside the cell. Other officers assisted Campbell in throwing me to the bed.

Once I was lying face down on the bed, legs shackled and other officers holding my arms, beat me on the left and right side of my head and ear lobes, kneecaps, left side, rib cage and kidneys, left and right forearms and wrists.

Campbell, acting individually and collectively with the above named officers continued to use excessive force to inflict pain and injury after I had lost consciousness.

As a result of officer Campbell's unnecessary and unreasonable use of excessive force, I suffered, and continue to suffer mental anguish, pain and suffering.

I was hospitalized for five days. I was unable to walk or perform normal bodily functions and movements because of the internal and external injuries inflicted upon me on 11/18/68.

Campbell also failed to take reasonable steps to protect me from the other officers' use of excessive force after I had been incapacitated.

Ground Two (Continued)Defendant #6: C.O.I., Joel Tew

Defendant Tew violated my federally protected rights under the 8th and 14th Amendments to the U.S. Constitution by subjecting me to cruel and unusual punishment by using unnecessary and unreasonable excessive use of force by maliciously and sadistically causing me to suffer wanton infliction of pain by beating me with his hands and fists after I was incapacitated.

On 1/18/08, officer Joel Tew entered segregation cell B-7-37 along with Logan, Wright, Peavey and Campbell. Officer Tew assisted other officers in throwing me face down on the bank inside the cell. Other officers assisted Tew in throwing me to the bed.

Once I was lying face down on the bed, legs shackled and other officers holding my arms, officer Tew beat me on the left side of my head, ear lobes, kneecaps, left sides rib cage and kidneys, left and right forearms and wrists.

Tew, acting individually and in concert with the other officers, continued to use excessive force to inflict pain and injury after I had lost consciousness.

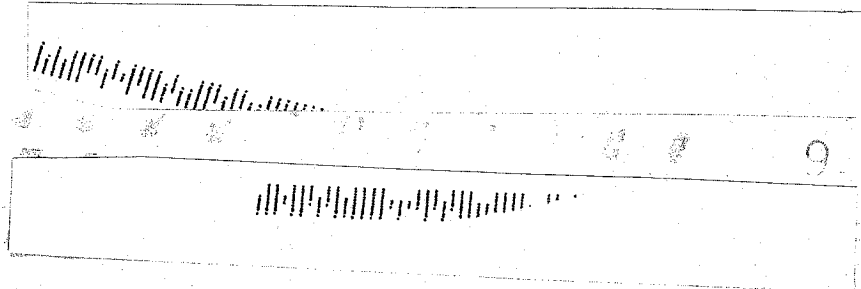
As a result of officer Tew's unnecessary and unreasonable use of excessive force, I suffered, and continue to suffer mental anguish, pain and suffering.

I was hospitalized for 5 days. I was unable to walk or perform normal bodily functions and movements because of the internal and external injuries inflicted upon me on 1/18/08.

Officer Tew also failed to take reasonable steps to protect me from the other officers' use of excessive force after I had been incapacitated.

Robert F. Garrett
Clerk
United States District Court
P.O. Box 711
Montgomery, Alabama 36104

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